

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

AUGUST 15, 2011

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

OPEN FORUM

Rankin Estates/Gravel Extraction

Sam Fulcomer, 19 Indigo Farm Road, strongly opposed any changes in zoning ordinances or bypassing of current zoning ordinances that would allow mineral extraction on the Nipsachuck Hill and the surrounding properties. He feels his property would suffer a huge depreciation in value. Mr. Fulcomer intends to pursue legal action if this happens.

Janet Prichard, 9 Indigo Farm Road, supports Mr. Fulcomer and agrees her property will be adversely affected by any zone changes that would allow mining. She has been told by a geologist that the area has very good gravel. Ms. Prichard feels the developers bought this property on speculation that they might be able to mine it. There is a lot of history in the area that needs to be investigated.

Michael Rapko, 25 Old Greenville Road, listens to sand and gravel trucks every day and it is unfortunate that the noise ordinance cannot stop them. The town needs to look at having strong ordinances. The Department of Environmental Management has told him that cities and towns have to take the lead to create good ordinances.

Paul Leclerc, 286 Old Oxford Road, stated about a year and a half ago, when he was a member of the Town Council, he was asked to attend a meeting with Town Administrator Hamilton and Town Planner Robert Ericson. He was shown a mining ordinance and was told by Mr. Ericson that the ordinance currently in place needed to be revised. On April 11, 2011 an aggregate extraction overlay district ordinance was proposed but tabled. Mr. Leclerc has many questions regarding this ordinance that he proceeded to enumerate. An Ordinance Development Committee member had told Mr. Leclerc that, according to Mr. Ericson, the ordinance was written by Attorney Eric Brainsky.

REGULAR MEETING

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members in attendance were Ms. Alves, Mrs. Charest, Mr. McGee, Mr. Zwolenski and Mr. Yazbak. Town Administrator Hamilton and Town Solicitor Nadeau were also present.

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Mr. Leclerc ended by saying it is his opinion that the Narragansett Improvement proposed settlement is directly or indirectly related to the gravel extraction ordinance. He urged the Council to delay making a decision until they can make an informed, educated one.

Paul Keenan, 23 Indigo Farm Road, is in favor of responsible housing development but he is not in favor of mining activity, especially one

masquerading as a housing development, or the destruction of historical burial grounds. Mr. Keenan does not want the town to become a giant mining operation and urged the town to fight it at the local level, the state level and in the courts.

Al Hebert, 2 Francis Farm Road, a former member of the Zoning Board stated the town has strong ordinances in town. The Planning and Zoning Boards rejected the developer's proposal and the developer sued the town. It happened often. Unless the ordinances have changed, gravel can only be removed in a subdivision for a cellar hole and for a septic system. The rest of the gravel must be redistributed around the property in question. He understands that lawsuits are costly but the saving of an amount of money is not worth risking the quality of life in the community.

Jay Freitas, 110 Homestead Avenue, commented that when he first saw the gravel extraction ordinance, he thought it was written by a developer.

Maureen Bischoff, 15 Leonard Drive, has attended numerous Planning Board and Zoning Board meetings regarding the Narragansett Improvement development. The application was denied for several reasons. She opposes any settlement that compromises existing subdivision regulations.

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Mr. Yazbak noted that four of the five present Council members took office on December 1, 2010. The lawsuit actions started in 2006. Last Wednesday attorneys were invited to a meeting to educate the Council members from a legal perspective. There is a lot of misinformation out there. His hands are tied right now but once the lawsuits are settled, he will urge all the Council members to make the facts upon which a decision was made available to the public. A settlement has been offered and the Town Council is now discussing it. Mr. Yazbak stated several times that an aggregate extraction ordinance is not a part of the proposed settlement of the litigation.

CONSENT AGENDA

Mrs. Charest asked that the minutes of July 18th be removed for discussion and Mr. Zwolenski asked that the minutes of August 1st also be removed for discussion.

MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted 4 to 1 (Mr. Yazbak voted no) on an aye vote to approve the following: 1.) Payment of monthly bills that include General Fund - \$216,949.15; Sewer - \$4,247.46; Water - \$2,612.60; School Department - \$1,440,455.00 and Fire Department - \$195,147.00 for a total of \$1,859,411.21; 2.) Payment of the NS Public Library July stipend; 3.) Payment of the Water Resource Board invoice in the amount of \$9,623.35; 4.) Payment of the claim for a damaged mailbox from Mr.

Gratto; 5.) NSC Service Line Warranty Program; 6.) Financial Statements for July; 7.) Resignation of Brett Farbstein from the Economic Development Commission; 8.) Historic District Commission minutes of March 21, April 18, May 16 and June 20, 2011; 9.) Ordinance Development Committee minutes of May 12, 2011; 10.) Zoning Board minutes of June 28, 2011; 11.) Animal Control Monthly report for July 2011; and 12.) NSF&RS, Inc. monthly report for July 2011.

Mrs. Charest noted that the minutes of July 18th identified the Town Solicitor as Ms. Hamilton and should be corrected to Mr. Nadeau.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to approve the minutes of July 18, 2011 as amended.

Mr. Zwolenski asked that the minutes of August 1st regarding the Silver Pines pump station be corrected to include that the Water and Sewer Superintendent Russell Carpenter had stated the pumping station at the time was functioning to expectations and the town should accept it.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to approve the minutes of August 1, 2011 as amended.

HOLIDAY SALES LICENSE – WAL-MART STORES EAST, LP D/B/A WALMART 2225

MOTION by Mrs. Charest, seconded by Ms. Alves and Mr. McGee, and voted unanimously on a roll call vote to approve a holiday sales license as presented.

ABATEMENT OF SEWER ASSESSMENT AND SEWER USE FEES FOR HALLIWELL SCHOOL

School Committee member Fran Johannis requested abatements for the entire 2011/2012 Halliwell School sewer assessment and use fees.

In 1996 the school fell under the Birch Hill Road/School Street sewer district. It has come to the attention of the school department that in 1996 a second assessment and use fee was imposed on the school budget in order to reduce the sewer assessment to those homeowners in that district. Executive Session minutes from October 16, 1996 indicate that the Halliwell School assessment was increased to absorb \$156,000 in costs in order to reduce the assessment to the homeowners of that district. Mrs. Johannis added that the second assessment and use fee charged to Halliwell totaled \$7,826.42 for the year. The school department is in the final year of paying this assessment. A calculation shows that payments made over twenty years equates to \$156,528.40 assessed to the school department. At this time the school department is not seeking reimbursement of the \$156,000, but rather they are asking for an abatement of this year's entire assessment of \$15,659.31.

When asked by Mr. Yazbak, Mrs. Johannis responded that this amount is a budgeted item in the school department budget and was paid in full today.

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Mr. Yazbak was not opposed to freeing up the money as he did not think it would have an adverse effect on the Enterprise Fund. Maybe the Council could agree that it should be abated but hold it to see how tight the school department budget becomes.

Ms. Hamilton commented that the Enterprise Fund comes from users, not taxpayers in general and she asked whether they should be alerted. She would be uncomfortable doing this without talking to the Sewer Commission, Mr. Carpenter and Mr. Wilcox.

Mr. Yazbak stated it is a town fund and the Council is the Board of Sewer Appeals. Also he thought an abatement could be asked for at any time and he understood there was a lot of difficulty in trying to obtain the background information on this.

Mr. Yazbak asked Mrs. Johannis to return to the School Committee to see if there could be some compromise position as to whether the school department will eventually need the funds.

Ms. Hamilton was not in total agreement that an error had occurred in the assessment.

MOTION by Mrs. Charest, seconded by Mr. McGee, and voted unanimously on an aye vote to table this matter to September 6, 2011 in an attempt to gather more information.

IT PROCESS FOR TOWN COMPUTERS

The Council has been discussing this for several meetings and Mrs. Charest would like to move on this tonight.

Superintendent of Schools Stephen Lindberg noted that he and School Department Technology Director Eric Butash had met with some of the municipal staff on March 24 when a survey had been distributed to gather information on the town computers. The response to the survey had been requested by April 29th. They received a piece of the necessary information on August 9th. Without the remaining survey information, the school department is unable to proceed with a realistic plan. If the Town Council wants the School Department to assume the responsibility of gathering the information, they will do so as quickly as possible.

MOTION by Mrs. Charest, seconded by Ms. Alves, Mr. McGee and Mr. Zwolenski, and voted unanimously on an aye vote to have Mr. Lindberg ask the School Committee to provide whatever resources are necessary and for which they have the capabilities to assist the administration in gathering the rest of the information necessary to get the plan started.

SCHOOL DEPARTMENT BUDGET

MOTION by Mrs. Charest, seconded by Mr. McGee, and voted unanimously on an aye vote to move this item up on the agenda.

Mr. Lindberg gave a presentation on the school department's Strategic Plan objectives, explaining what this year's budget will reduce and restore as far as personnel, curriculum, activities, etc.

LIFE SAFETY EMERGENCY GENERATOR

Mr. Lindberg had hoped to keep their current generator going but it will no longer start up by itself. This is a very big concern for the fire marshal considering the opening of school in a few weeks. Fire Marshal Brian Gartland is working with the School Facilities Director Tony Kopacz for an alternate option for a short time in order to delay rental of a permanent unit that would cost approximately \$25,000.

Mr. Lindberg stated that they did go out to bid for a replacement generator and he asked the Council to consider moving forward with this.

Mr. Yazbak commented because the school building is a town shelter, there are certain items that need to be instant on.

Mr. Yazbak learned at a meeting with Finance Director Brian Silvia that there will be \$75,000 to \$85,000 left over from the Middle School

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project that has already been borrowed and for which the town is paying. The remainder could come from the cell tower.

Ms. Hamilton had received a letter from Emergency Management Director Peter Branconnnier about the possibility of purchasing a previously-owned or demo generator.

Mr. Lindberg noted that process had started in September 2010 and there has been no definitive answer to date. It may or may not be a good demo unit and it may or may not have a warranty.

Mr. Yazbak appreciated the effort but he didn't think the town could wait to get that generator and schools would not be able to open.

Mr. Paul Vadenais, member of the School Building Committee, said the committee recommended using money from the Middle School for this purchase.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on a roll call vote to award a bid to Advance Electrical Corp. in the amount of \$109,688.00 that includes Life Safety Generator - \$46,220.00, Installation - \$41,234.00, Site Work Removal of Old Generator - \$11,270.00, Two year Warranty - \$800.00, Auto Transfer Switch for Building Boilers - \$7,164.00 and Tie in Domestic

Water Vault PLC - \$3,000.00 based on the bid report and the funding source will be the remainder of the Middle School building account which should be \$75,000 to \$85,000 and the cell tower money.

Mr. Silvia stated that per the Charter, the bidder should be present for an award of bid over \$50,000.00.

Mr. Yazbak felt that because of the emergency nature, this could move forward.

EXTENDED WARRANTY FOR GRINDER PUMPS

Sewer Superintendent Russell Carpenter explained that there are some residents whose grinder pump warranties have expired. He has some concerns about F. R. Mahony & Associates, the company that supplies the grinder pumps, but they are the only company that Environment One Corporation will hire to do the extended three-year warranty. Mr. Carpenter stated that the homeowner has to wait an unreasonable amount of time for repairs and replacements. The company has only four technicians to cover all of New England. There is an option of having the sewer department employees getting the training and doing the work themselves.

Mr. Zwolenski thought there was supposed to be a couple of extra pumps on hand at the highway that could be used to replace any pumps not working correctly.

Mr. Yazbak suggested buying a couple of pumps and parts, hire a local company to swap them out, and return the defective pumps back to F. R. Mahony for repairs. It would be a cost savings for the town and it would save Mahony time and energy.

No decision was made and it was decided to get more information and come back to the Council.

APPOINTMENT TO REDEVELOPMENT AGENCY

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to appoint Mr. Joseph (Jay) Freitas Jr. to the Redevelopment Agency. This is a four-year term that expires December 1, 2013.

EXCEPTION TO NOISE ORDINANCE FOR DOWLING VILLAGE DEVELOPMENT SITE

Site Resources LLC has not pursued this with anyone and there was no one in attendance to speak to it so the matter was dropped from future agendas.

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WESTERN STATES CONTRACTING ALLIANCE GOVERNMENTAL USER AGREEMENT (VERIZON WIRELESS)

Mr. Silvia is recommending a switch from Nextel Communications to Verizon Wireless as a cell phone provider. He anticipates an average before tax savings of over \$50.00 per month.

MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to approve this agreement.

MOTION by Mrs. Charest, seconded by Mr. McGee and Mr. Zwolenski, and voted unanimously on an aye vote to authorize Mr. Silvia to sign the contract with Western States Contracting Alliance.

TAX EXEMPTION FOR PROPERTY AT 11 GILFILLAN ROAD – SEVEN HILLS RI/THE HOMESTEAD GROUP

Seven Hills Rhode Island/The Homestead Group requested an exemption of property tax for their recent purchase of property located at 11 Gilfillan Road.

Mr. Nadeau had asked for a copy of their Internal Revenue Service 501C exemption, which was provided.

Mr. Yazbak questioned when a property becomes eligible for tax exempt status. He felt this was a premature request and should wait until they have residents living there. Therefore, it would still be subject to taxation.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, Mrs. Charest and Mr. McGee, and voted unanimously on an aye vote to table this request until such time that a certificate of occupancy has been issued and there is a request to abate the taxes as of that date.

EXTENSION OF STREET OVERLAY BID CONTRACT

Public Works Director Raymond Pendergast requested to extend the term of the existing contract with Cardi Corporation for street overlay for an additional year as allowable under the terms of the current contract. Mr. Pendergast noted that he has a negotiated price of \$67.19 per ton. There is no time to rebid and the money will disappear at the end of September. The construction and overlay is being paid out of FEMA funds.

Mr. Pendergast added that Cardi Corporation still has to overlay a section of Mattity Road at \$18,333.80 at the bid price of \$59.99 per ton with RI-LEAP funds.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to extend the contract for an additional year as allowed in the terms of the current contract for street overlay at a cost of \$67.19 per ton.

INTERSECTION OF NORTH MAIN STREET AND VICTORY HIGHWAY

A resident asked Mr. Yazbak if this intersection could be reviewed

once again. When the light is green on one side, someone is always going through in the other direction.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to refer this to the Public Safety Commission for their review and that any suggestions they may have for safety improvements be directed to either the Public Safety Director or the Council.

Ms. Hamilton noted that there may be something in the works to improve the traffic at that intersection.

EXECUTIVE SESSION

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to enter into executive session at 9:16 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation to discuss Narragansett Improvement vs. the Town of North Smithfield (Three RI Superior Court cases) specifically a.) Narragansett Improvement Company, et als v. Jill Gemma, et als, C.A. PC08-7468, b.) Narragansett Improvement Company, et als v. Vincent

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Marcantonio, et als, C.A. No. PC08-6504 and c.) Town of North

Smithfield v. Narragansett Improvement Company, et als, PC08-3674.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to come out of executive session at 10:01 P.M. No motions were made and no votes were taken.

MOTION by Mr. Zwolenski, seconded by Mrs. Charest, and voted unanimously on an aye vote to extend the curfew to 11:00 P.M.

MOTION by Mrs. Charest, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to re-enter executive session at 10:02 P.M.

MOTION by Mrs. Charest, seconded by Ms. Alves, and voted unanimously on an aye vote to come out of executive session at 10:53 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mrs. Charest, seconded by Ms. Alves and Mr. Zwolenski, and voted unanimously on an aye vote to adjourn at 10:54 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk